

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
WILLIAM MASCUCH : ORDER OF REVOCATION
_____ : DOCKET NO: 0607-134

At its meeting of December 7, 2006, the State Board of Examiners reviewed information it had received from the Office of Compliance (OCI) within the Department of Education. The OCI had provided information about William Mascuch. The OCI alleged that Mascuch, an elementary school teacher in the Asbury Park School district, had violated testing procedures in administering the New Jersey Assessment of Skills and Knowledge Test (NJ ASK). According to the OCI report, Mascuch did not abide by test time requirements when administering the test and did not stop and start the test as required in the examiner's manual. Mascuch also read aloud two reading comprehension passages and when the test proctor advised him that reading aloud was not permitted, he disregarded the proctor's comment and continued to do so in violation of test procedures. Mascuch also allowed students to complete section 2 of the Language Arts Literacy day 1 test on day 2 because he had not adhered to time requirements on day 1. Finally, Mascuch assisted a student with an open-ended math questions by placing coins in the amount of the correct answer on the student's desk during the test. Due to Mascuch's breach, the district was compelled to retest all seven students who were in Mascuch's room during the NJ ASK at an extra cost to the district. Based upon the information it had reviewed, the Board of Examiners voted to issue an Order to Show Cause to Mascuch. Mascuch currently holds a Teacher of Elementary School Certificate of Eligibility, issued in August 1994, and a Teacher of Elementary School certificate, issued in October 2002.

The Board sent Mascuch the Order to Show Cause by regular and certified mail on December 19, 2006. The Order provided that Mascuch must file an Answer within 30 days. Mascuch filed his Answer on January 5, 2007. In his Answer, Mascuch denied the allegations in the Order to Show Cause regarding his breach of testing procedures. (Answer, ¶¶ 3-4).

The Board of Examiners transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Jeff Masin heard testimony on October 18, 2007. After the record closed, the ALJ issued an Initial Decision on October 29, 2007. *In the Matter of the Certificates of William Mascuch*, Dkt. No. EDE 00458-07 (Initial Decision, October 29, 2007).

In that decision, ALJ Masin found that Mascuch “had experience in the administration of State-wide assessment tests, had received training in the past and was the assigned examiner for the ASK 3 test for seven students on March 20, 21 and 22, 2006.” (Initial Decision, slip op. at 6). After reviewing the testimony, the ALJ determined that Mascuch had willfully ignored his proctor’s advice and “read the reading comprehension sections aloud,...ignored time elements and...attempted to provide substantive assistance to a student while she was taking the test.” (Initial Decision, slip op. at 6). ALJ Masin concluded that “this type of activity violates the expected norms of conduct for a certified teacher.” (Initial Decision, slip op. at 6).

In assessing an appropriate penalty, the ALJ noted that Mascuch provided no evidence in the case and “nothing in defense or mitigation of his actions.” (Initial Decision, slip op. at 7). ALJ Masin further observed that “the testimony...as to the importance of maintaining the security and assuring the validity of the test and of its

results demonstrates that the actions of someone who deliberately acts in a manner that undermines that integrity engages in serious misconduct.” (Initial Decision, slip op. at 7). He therefore concluded that because of “the serious nature of Mr. Mascuch’s misconduct and the complete absence of any defense or any factors in mitigation of his conduct” his certificates “must be REVOKED.” (Initial Decision, slip op. at 7). Neither the Deputy Attorney General (DAG) representing the Board of Examiners nor Mascuch filed exceptions to the Initial Decision.¹

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of December 6, 2007, the State Board of Examiners reviewed the Initial Decision. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision to revoke Mascuch’s certificates. There is no doubt that the ALJ is in the best position to render credibility determinations and the Board will defer to those findings. The Board agrees that ALJ Masin correctly determined that, by violating established and known testing procedures, Mascuch had engaged in conduct unbecoming a teacher, one of the grounds for revocation or suspension of a teaching certificate. *N.J.A.C. 6A:9-17.5*. Accordingly, the Board will defer to those findings and the remaining decision is one of penalty.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff’d*, 131 *N.J.L.* 326

¹ Although Mascuch did not file timely exceptions, on November 29, 2007, he requested a *nunc pro tunc* extension of time in which to do so. The Board denied his request.

(E & A 1944). “Teachers ... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment.” *Tenure of Sammons*, 1972 *S.L.D.* 302, 321.

The Board of Examiners agrees with the ALJ’s assessment that Mascuch’s willful violation of his proctor’s advice and State-established testing procedures warrants the imposition of a strict penalty. Mascuch’s actions are indefensible and, indeed, he could offer no explanation in mitigation of his behavior. In addition to incurring an extra expense for the district to re-administer portions of the NJ ASK, Mascuch has relinquished all claim to serving as a role model for students. In the strikingly similar *Karis* case that the Board also decided today, it determined that when a teacher violates testing security measures in order to affect test results and directly benefit students, the conduct is so egregious that revocation must result. See *In the Matter of the Certificates of Aikaterini Karis*, Dkt. No. 0607-111 (St. Bd. of Examiners, January 17, 2008) (teacher who accessed secure GEPA exam and provided advance instruction to students based on test writing prompts had certificates revoked.)

Moreover, this case can be easily contrasted to that of Hattie Black who retained her teaching certificate while having her administrative certificates revoked for similar infractions. *In the Matter of the Revocation of the Certificates of Hattie Black*, Dkt. No. A-2635-03T1 (App. Div. March 11, 2005) (Unreported Opinion). In Black’s case, she obtained secure tests via her position as Principal, but did not share inappropriately obtained information with other staff members or students. Accordingly, the Appellate Division allowed her to retain her teaching certificate since her breach was not related to

her capacity as a teacher. In this matter, Mascuch possesses only instructional certificates and his breach occurred in his capacity as a teacher. The Board therefore determines that revocation is the only appropriate response to Mascuch's breach.

Accordingly, on December 6, 2007, the Board voted to adopt the Initial Decision to revoke Mascuch's certificates. On this 17th day of January 2008, the Board formally adopted its decision to revoke and it is therefore ORDERED that William Mascuch's Teacher of Elementary School Certificate of Eligibility and Teacher of Elementary School certificate be revoked on this day. It is further ORDERED that Mascuch return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing: JANUARY 22, 2008

Appeals may be made to the State Board of Education pursuant to the provisions of *N.J.S.A. 18A:6-28*.